

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>CINCOM SYSTEMS, INC.,</b>	:	<b>Case No. 1:20-cv-83</b>
	:	
<b>Plaintiff,</b>	:	<b>Judge Matthew W. McFarland</b>
	:	<b>Magistrate Judge Stephanie K. Bowman</b>
<b>v.</b>	:	
	:	
<b>LABWARE, INC.,</b>	:	
	:	
<b>Defendant.</b>	:	

**JOINT MOTION REGARDING BRIEFING SCHEDULE ON PENDING MOTIONS  
AND REQUEST FOR LEAVE TO FILE ANTICIPATED BRIEFS UNDER SEAL**

Pursuant to the Court’s September 27, 2022 Minute Entry, the Court’s January 12, 2023 Order (ECF No. 51) and the Court’s January 13, 2023 Order (ECF No. 64), Plaintiff Cincom Systems, Inc. (“Cincom”) and Defendant LabWare, Inc. (“LabWare”), by and through counsel, respectfully submit this Joint Motion Regarding Briefing Schedule on Pending Motions and Request to File Anticipated Briefs Under Seal.

**Briefing Schedule.** On January 17, 2023, both parties filed cross-motions for summary judgment and, in addition, Cincom also filed two *Daubert* motions and two motions *in limine*. The current Scheduling Order (*see* Sept. 27, 2022 Minute Order) provides that opposition briefs to dispositive motions are due February 10, 2023. The parties have agreed to consolidate the briefing schedule so that all opposition and reply briefs on the pending motions are due on the same days. Therefore, the parties respectfully request the Court enter an Order confirming the briefing scheduling as follows:

- (1) The parties shall file opposition briefs to the pending summary judgment, *Daubert*, and *in limine* motions on or before Friday, February 10, 2023; and

- (2) The parties shall file reply briefs for the pending summary judgment, *Daubert*, and *in limine* motions or before Monday, February 27, 2023.

**Request for Leave to File Anticipated Briefs Under Seal.** In addition, and pursuant to the Court's January 12, 2023 Order (ECF No. 51) and the Court's January 13, 2023 Order (ECF No. 64), the parties also respectfully request leave to file under seal their anticipated opposition and reply briefs for the pending summary judgment, *Daubert*, and *in limine* motions.

While the Sixth Circuit recognizes a strong presumption against the sealing of documents, *Shane Grp., Inc. v. Blue Cross Blue Shield*, 825 F.3d 299, 305 (6th Cir. 2016), this presumption may be overcome by "trade secrets, information covered by a recognized privilege (such as the attorney-client privilege), and information required by statute to be maintained in confidence[.]" *Id.* at 308 (citing *Baxter Int'l, Inc. v. Abbott Labs.*, 297 F.3d 544, 546 (7th Cir. 2002)). "To meet this burden, the party must show three things: (1) a compelling interest in sealing the records; (2) that the interest in sealing outweighs the public's interest in accessing the records; and (3) that the request is narrowly tailored." *Kondash v. Kia Motors Am., Inc.*, 767 F. App'x 635, 637 (6th Cir. 2019). To do so, the party must "analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations." *Id.* (citing *Shane Grp.*, 825 F.3d at 305).

Here, the parties have met such burden. (ECF Nos. 51, 64.) For the same reasons the underlying record materials and motions were filed under seal, the parties anticipated opposition and reply briefs will also cite to and quote verbatim confidential record materials that contain CONFIDENTIAL and ATTORNEYS' EYES ONLY materials that the Court previously ruled must be filed under seal. (See January 12, 2023 Order (ECF No. 51) and January 13, 2023 Order (ECF No. 64).) As such, both the anticipated opposition and reply briefs should also be filed under seal.

Date: January 19, 2023

Respectfully submitted,

/s/ Joseph M. Callow, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 19, 2023, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all counsel of record.

/s/ Joseph M. Callow, Jr.

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